

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Texas Cable Partners, LP)	
)	File Number EB-02-HU-025
Owner of Antenna Structure Located 1.5 miles south)	
of Cotulla, Texas at 28°25'02" North Latitude and)	NAL/Acct. No. 200232540001
099°14'53.1" West Longitude.)	
)	FRN 0003-5721-53
)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: May 21, 2002

By the Enforcement Bureau, Houston Office:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture, we find that **Texas Cable Partners, LP** willfully and repeatedly violated Section 17.4(a) of the Commission's Rules¹ by failing to register its antenna structure located 1.5 miles south of Cotulla, Texas at 28°25'02" North Latitude and 099°14'53.1" West Longitude. We find **Texas Cable Partners, LP** apparently liable for forfeiture in the amount of three thousand dollars (\$3,000).

II. BACKGROUND

2. On April 19, 2002, an agent of the FCC Enforcement Bureau's Houston Resident Agent Office ("Houston Office") inspected an antenna structure located 1.5 miles south of Cotulla, Texas at 28°25'02" North Latitude and 099°14'53.1" West Longitude. Because the structure's height exceeded 200 feet and thus required notification to the Federal Aviation Administration, the antenna structure required registration with the FCC. The agent observed no antenna structure registration ("ASR") number visible on or near the base of the structure. The agent called the telephone number posted at the gate leading to the antenna structure and determined that the tower belonged to Time Warner Cable.

3. On April 30, 2002, the Houston Office agent telephoned **Texas Cable Partners, LP**, the entity that owns Time Warner Cable towers located in the State of Texas, and confirmed they owned the tower and that the tower was not registered. A check of the FCC ASR database confirmed that there was no record of registration for the tower.

¹ 47 C.F.R. § 17.4(a).

4. On May 1, 2002, the Houston Office agent again checked the FCC ASR database and discovered that the antenna structure had been registered that day with **Texas Cable Partners, LP** as the owner of the structure.

III. DISCUSSION

5. Section 17.4(a) of the Rules provides that, effective July 1, 1996, owners of any existing antenna structures that require notification to the Federal Aviation Administration must register the structure with the Commission. Section 17.4(a)(2) of the Rules provides that, effective July 1, 1998, owners of an antenna structure that had been assigned painting or lighting requirements prior to July 1, 1996, must register the structure with the Commission. **Texas Cable Partners LP**'s tower required registration yet they failed to register the tower as of April 19, 2002, and did not register the tower until May 1, 2002, after an agent of the Houston Office informed them that the tower was not registered. Based on the evidence before us, we find that **Texas Cable Partners LP** willfully² and repeatedly³ violated Section 17.4(a) of the Commission's Rules by failing to register their antenna structure.

6. Pursuant to Section 1.80(b)(4) of the Commission's Rules,⁴ the base forfeiture amount for the violation cited in this Notice of Apparent Liability is \$3,000 (failure to file required forms or information). Section 503(b)(2)(D) of the Communications Act of 1934, as amended ("Act"),⁵ requires us to take into account "... the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require." Considering the record as a whole and the statutory factors listed above, this case warrants a forfeiture in the amount of \$3,000.

IV. ORDERING CLAUSES

7. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act,⁶ and Sections 0.111, 0.311 and 1.80 of the Commission's Rules,⁷ **Texas Cable Partners, LP** is hereby NOTIFIED of its APPARENT LIABILITY FOR A FORFEITURE in the amount of three thousand dollars (\$3,000) for willfully and repeatedly violating Section 17.4(a) of the Commission's Rules by failing to register an antenna structure that requires notification to the Federal Aviation Administration.

² Section 312(f)(1) of the Communications Act of 1934, as amended ("Act"), 47 U.S.C. § 312(f)(1), which applies equally to Section 503(b) of the Act, provides that "[t]he term 'willful,' when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act...." See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

³ The term "repeated" means the commission or omission of an act more than once or, if such commission or omission is continuous, for more than one day. 47 U.S.C. § 312(f)(2).

⁴ 47 C.F.R. § 1.80(b)(4).

⁵ 47 U.S.C. § 503(b)(2)(D).

⁶ 47 U.S.C. § 503(b).

⁷ 47 C.F.R. §§ 0.111, 0.311, 1.80.

8. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Commission's Rules,⁸ within thirty days of the release date of this NOTICE OF APPARENT LIABILITY, **Texas Cable Partners, LP** SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

9. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Acct. No. and FRN referenced above.

10. The response, if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12th Street SW, Washington DC 20554, Attn: Enforcement Bureau-Technical & Public Safety Division and MUST INCLUDE THE NAL/Acct. No. and FRN referenced above.

11. Requests for payment of the full amount of this Notice of Apparent Liability under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.⁹

12. IT IS FURTHER ORDERED THAT a copy of this NOTICE OF APPARENT LIABILITY shall be sent by Certified Mail Return Receipt Requested to **Texas Cable Partners, LP**, to the attention of Don Sambol, P.O. Box 6659, Englewood, CO 80155-6659.

FEDERAL COMMUNICATIONS COMMISSION

Oliver K. Long
Resident Agent – Houston Office, Enforcement Bureau

⁸ 47 C.F.R. § 1.80.

⁹ See 47 C.F.R. § 1.1914.